

ORIGINAL

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF TEXAS

CLERK US DISTRICT COURT
NORTHERN DIST. OF TX
FILED

2023 JUL 13 AM 11:01

TARA ANN PORTER
Plaintiff,

v.
PORTFOLIO RECOVERY
ASSOCIATES LLC
Defendants.

CASE NO. DEPUTY CLERK MS

Complaint for a civil case

Jury Trial: ☒ Yes ☐ No

3-23CV1560-D

INTRODUCTION

1. This is a civil action for actual, statutory damages and cost brought by Tara Ann Porter, ("Plaintiff") an individual consumer, against defendant, Portfolio Recovery Associates LLC for violations of the Fair Credit Reporting Act, 15 U.S.C § 1681 et seq. (hereinafter "FCRA") and violations of the Texas Business and Commerce Code Title 2 Chapter 20 Subchapter A SEC. 20.02.

BASIS OF JURISDICTION

2. Jurisdiction of this court arises under 15 U.S.C § 1681(p), 15 U.S.C. § 1692k(d) and 28 U. S. C § 1331. Venue is proper in this judicial district pursuant to 28 U.S.C. 1391(b)(1) and 28 U.S.C. § 1391(b)(2) because a substantial part of the events, omissions, or conduct giving rise to Plaintiff claim occurred in this judicial district. Defendants Portfolio Recovery Associates transact business in Royse City, TX, Collin County, Texas.

3. The Court has supplemental jurisdiction of any state law claims pursuant to 28 U.S.C. §1367.

PARTIES

4. Plaintiff, Tara Ann Porter is a natural person and consumer as defined by 15 U.S.C. § 1681a(c), residing Royse City, TX, Collin County, Texas.

1 5. Upon information and belief, Portfolio Recovery Associates LLC. is a Virginia
2 corporation with its principal place of business located at 120 Corporate Blvd, Norfolk,
3 VA 23502.

4 6. Defendant Portfolio Recovery Associates LLC is a "debt collector" as that term is
5 defined by 15 U.S.C. § 1692a(6).

6 7. The acts of Defendant as described in this Complaint were performed by Defendant or
7 on Defendant's behalf by its owners, officers, agents, and/or employees acting within the
8 scope of their actual or apparent authority. As such, all references to "Defendant" in this
9 Complaint shall mean Defendants or their owners, officers, agents, and/or employees.

10 **FACTUAL ALLEGATIONS**

11 8. On or about July 10, 2023, Plaintiff reviewed her Experian and TransUnion consumer
12 report.

13 9. In the report the Plaintiff observed twenty- one unauthorized inquiries from the
14 Defendant Portfolio Recovery Associates LLC.

15 10. Defendant Portfolio Recovery Associates LLC made six different inquiries on the
16 following dates 07/15/2022, 07/22/2022, 08/02/2022, 09/04/2022, 09/20/2022,
17 09/27/2022, 10/19/2022, 11/06/2022, 01/05/2023, 01/08/2023, 01/12/2023, 02/19/2023,
18 03/11/2023, 03/12/2023, 03/23/2023, 03/25/2023, 04/27/2023, 05/06/2023, 05/08/2023,
19 06/13/2023, and 06/14/2023 see Exhibit A.

20 11. Plaintiff never initiated a consumer credit transaction with Defendant nor had an
21 account with the defendants.

22 12. Plaintiff never entered into a contract with the Defendant.

23 13. Plaintiff never gave any consent to defendants to access her consumer report.

24 14. Plaintiff has the interest and right to be free from deceptive, misleading collection
efforts.

15. Plaintiffs have the interest and right to privacy from individuals including defendants
of unauthorized access of personal identifiable information in her consumer report.

16. Plaintiff's injury is "particularized" and "actual" in that the conduct that deprived
Plaintiff of her rights was directed by Defendants to Plaintiff specifically.

17. Plaintiff's injury is "particularized" and "actual" in that the Plaintiff has suffered
emotional distress from the Defendants unauthorized access of her credit report.

18. Plaintiff's injury is "particularized" and "actual" in that the Plaintiff has suffered an
invasion of her privacy. This intrusion into the Plaintiffs personal information has caused
a feeling of vulnerability, worry and anxiety which lead to sleeplessness and headaches.

1 19. Plaintiff's injury is "particularized" and "actual" in that the Plaintiff has suffered fear
2 and anger over the invasion of her privacy.

3 20. Plaintiff's injury is "particularized" and "actual" in that the Plaintiff as suffered loss
4 of time into research and learning to defend against the defendant's invasion of privacy.

5 21. Plaintiff's injury is directly traceable to defendant's conduct because if it weren't for
6 the defendant's conduct, Plaintiff would not have been deprived of her rights and would
not have been subject to the emotional distress, anxiety, worry and invasion of privacy
caused by the defendant actions.

7 22. Defendant's conduct as described in this complaint was willful, with the purpose
8 to either harm the Plaintiff or with reckless disregard for the harm to Plaintiff that could
result from defendant's conduct.

9 23. Plaintiff justifiably fears that, absent this court's intervention, defendant Portfolio
10 Recovery Associates LLC will continue to use abusive, deceptive, unfair, and unlawful
means in its attempts to collect alleged debts and invade consumers privacy by
continuing to access consumers information without permissible purpose.

11 24. The deprivation of Plaintiff's rights will be redressed by a favorable decision
12 herein.

13 25. A favorable decision herein would redress Plaintiff's injury with money damages.

14 26. A favorable decision herein would serve to deter Defendants from further similar
15 conduct.

16 **COUNT 1 VIOLATION OF THE FAIR CREDIT REPORTING ACT**
17 **15 U.S.C § 1681b(f) DEFENDANTS PORTFOLIO RECOVERY ASSOCIATES**

18 27. All preceding paragraphs are realleged.

19 28. Defendant Portfolio Recovery Associates actions violated 15 U.S.C § 1681b(f).
20 Permissible Purpose.

21 29. The Defendant violations include but are not limited to the following:

22 (a) Portfolio Recovery Associates violated 15 U.S.C § 1681b(f) by failing to have
permissible purpose to obtain Plaintiff consumer report pursuant to 15 U.S.C § 1681b.

23 (b) Portfolio Recovery Associates LLC did not have a court order to obtain Plaintiff
24 consumer report.

1 (c) Plaintiff never gave written permission for Portfolio Recovery Associates LLC to
2 obtain her consumer report.

3 (d) Plaintiff does not have an account, which is defined under and has the same meaning
4 under the Electronic Funds Transfer Act 15 U.S.C § 1693a (2), with Portfolio Recovery
5 Associates LLC.

6 (e) Pursuant to the Electronic Funds Transfer Act 15 U.S.C § 1693a the term "account"
7 means a demand deposit, savings deposit, or other asset account (other than an occasional
8 or incidental credit balance in an open end credit plan as defined in section 1602(i) [1] of
9 this title), as described in regulations of the Bureau, established primarily for personal,
10 family, or household purposes, but such term does not include an account held by a
11 financial institution pursuant to a bona fide trust agreement;

12 (f) Portfolio Recovery Associates LLC does not have an account with the Plaintiff
13 according to the definition above.

14 30. As a result of Portfolio Recovery Associates LLC violations of the Fair Credit
15 Reporting Act, the Defendant is liable for damages and costs of \$1000 per violation or
16 \$21000 total.

17 **COUNT II VIOLATION OF THE TEXAS BUSINESS AND COMMERCE CODE**
18 **TITLE 2 CHAPTER 20 SUBCHAPTER A SEC. 20.02**
19 **PORTFOLIO RECOVERY ASSOCIATES**

20 31. Plaintiff is a consumer within the meaning of Texas Business and Commerce Code
21 Title 2 Chapter 20 Subchapter A SEC. 20.01(2)

22 32. Consumer credit report is a consumer report within the meaning of Texas Business
23 and Commerce Code Title 2 Chapter 20 Subchapter A SEC. 20.01(4).

24 33. Texas Business and Commerce Code Title 2 Chapter 20 Subchapter A SEC. 20.02
defines the permissible purposes for which a person may obtain a consumer credit report.

34. Such permissible purposes as defined by Texas Business and Commerce Code Title 2
Chapter 20 Subchapter A SEC. 20.02 are generally, in response to a court order issued by
a court with proper jurisdiction, if the consumer makes application for credit, makes
application for employment, for underwriting of insurance involving the consumer, or is
offered a bona fide offer of credit as a result of the inquiry, and in accordance with the
written instructions of the consumer to whom the report relates.

35. Plaintiff has never had any business dealings or any accounts with, made application
for credit from, made application for employment with, applied for insurance,
or received a bona fide offer of credit or gave written permission to Defendants to access
her consumer report.

36. Defendant Portfolio Recovery Associates LLC made six different inquiries on the following dates 07/15/2022, 07/22/2022, 08/02/2022, 09/04/2022, 09/20/2022, 09/27/2022, 10/19/2022, 11/06/2022, 01/05/2023, 01/08/2023, 01/12/2023, 02/19/2023, 03/11/2023, 03/12/2023, 03/23/2023, 03/25/2023, 04/27/2023, 05/06/2023, 05/08/2023, 06/13/2023, and 06/14/2023 see Exhibit A.

37. At no time did Plaintiff give her consent for Portfolio Recovery Associates LLC to acquire her consumer credit report from any credit reporting agency.

38. The actions of Defendants in fraudulently obtaining the consumer credit report of the plaintiff with no permissible purpose or Plaintiff's consent, was a willful violation of Texas Business and Commerce Code Title 2 Chapter 20 Subchapter A SEC. 20.02 and an egregious violation of Plaintiff's right to privacy.

39. At no time has the defendants ever indicated what justification they may have had for obtaining Plaintiff's credit report. The Defendants had a duty to properly ascertain if there was any legitimate permissible purpose under Texas Business and Commerce Code Title 2 Chapter 20 Subchapter A SEC. 20.02 before obtaining Plaintiff's credit report and Defendants breached said duty by failing to do so. Plaintiff is entitled to statutory damages of \$1000 per violation or \$21000 for Defendant Portfolio Recovery Associates LLC under Texas Business and Commerce Code Title 2 Chapter 20 Subchapter A SEC. 20.09.

JURY DEMAND AND PRAYER FOR RELIEF


Wherefore, Plaintiff Tara Ann Porter, respectfully demands a jury trial and request that judgment be entered in favor of the Plaintiff against the Defendants for:

(A) Violating the Fair Credit Reporting act and Texas Business and Commerce Code Title 2 Chapter 20 Subchapter A SEC. 20.02.

(B) Actual damages pursuant to 15 U.S.C. § 1681n(a)(1)(A) and 15 U.S.C. § 1681n(a)(1)(B) of \$1000 per violation.

(C) Actual damages of \$1000 per violation pursuant to Texas Business and Commerce Code Title 2 Chapter 20 Subchapter A SEC. 20.09.

(D) Punitive damages as the court may allow pursuant to 15 U.S.C § 1681n(a)(2) and For such other and further relief as the court may deem just and proper.



Tara Ann Porter
613 Long Prairie Dr
Royse, TX 75189
214-994-7016
taragiannasi@gmail.com

EXHIBIT A

PORTFOLIO RECOV ASSOC

Inquired on 05/06/2023,
04/27/2023, 03/25/2023,
03/23/2023, 03/12/2023,
03/11/2023, 02/19/2023,
01/12/2023, 01/08/2023,
01/05/2023, 11/06/2022,
10/19/2022, 09/27/2022,
09/20/2022, 09/04/2022,
08/02/2022,
07/22/2022 and 07/15/2022

120 CORPORATE BLVD STE
100,
NORFOLK VA 23502
(844) 675-3408

PORTFOLIO RECOVERY ASSO

Location	Requested On	Phone
140 CORPORATE BLVD NORFOLK, VA 23502	05/08/2023	(888) 772-7326

PORTFOLIO RECOVERY ASSOCIATES

Location	Requested On	Phone
140 CORPORATE BLVD NORFOLK, VA 23502	06/14/2023, 06/13/2023	(844) 675-3407

CIVIL COVER SHEET

The JS 44 civil cover sheet and the information contained herein neither replace nor supplement the filing and service of pleadings or other papers as required by law, except as provided by local rules of court. This form, approved by the Judicial Conference of the United States in September 1974, is required for the use of the Clerk of Court for the purpose of initiating the civil docket sheet. (SEE INSTRUCTIONS ON NEXT PAGE OF THIS FORM.)

I. (a) PLAINTIFFS

Tara Ann Porter

DEFENDANTS

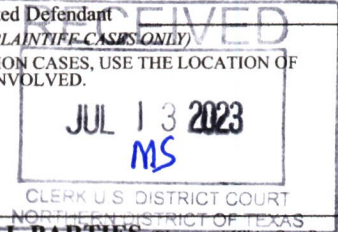
Portfolio Recovery Associates LLC

(b) County of Residence of First Listed Plaintiff Collin County, TX
(EXCEPT IN U.S. PLAINTIFF CASES)County of Residence of First Listed Defendant
(IN U.S. PLAINTIFF CASES ONLY)

NOTE: IN LAND CONDEMNATION CASES, USE THE LOCATION OF THE TRACT OF LAND INVOLVED.

(c) Attorneys (Firm Name, Address, and Telephone Number)

Attorneys (If Known)



II. BASIS OF JURISDICTION (Place an "X" in One Box Only)

- ☐ 1 U.S. Government Plaintiff
- ☒ 3 Federal Question
(U.S. Government Not a Party)
- ☐ 2 U.S. Government Defendant
- ☐ 4 Diversity
(Indicate Citizenship of Parties in Item III)

III. CITIZENSHIP OF PRINCIPAL PARTIES (Place an "X" in One Box for Plaintiff and One Box for Defendant)

- | | PTF | DEF | | PTF | DEF |
|---|----------------------------|----------------------------|---|----------------------------|----------------------------|
| Citizen of This State | <input type="checkbox"/> 1 | <input type="checkbox"/> 1 | Incorporated or Principal Place of Business In This State | <input type="checkbox"/> 4 | <input type="checkbox"/> 4 |
| Citizen of Another State | <input type="checkbox"/> 2 | <input type="checkbox"/> 2 | Incorporated and Principal Place of Business In Another State | <input type="checkbox"/> 5 | <input type="checkbox"/> 5 |
| Citizen or Subject of a Foreign Country | <input type="checkbox"/> 3 | <input type="checkbox"/> 3 | Foreign Nation | <input type="checkbox"/> 6 | <input type="checkbox"/> 6 |

IV. NATURE OF SUIT (Place an "X" in One Box Only)

Click here for: Nature of Suit Code Descriptions.

CONTRACT	TORTS	FORFEITURE/PENALTY	BANKRUPTCY	OTHER STATUTES
<input type="checkbox"/> 110 Insurance <input type="checkbox"/> 120 Marine <input type="checkbox"/> 130 Miller Act <input type="checkbox"/> 140 Negotiable Instrument <input type="checkbox"/> 150 Recovery of Overpayment & Enforcement of Judgment <input type="checkbox"/> 151 Medicare Act <input type="checkbox"/> 152 Recovery of Defaulted Student Loans (Excludes Veterans) <input type="checkbox"/> 153 Recovery of Overpayment of Veteran's Benefits <input type="checkbox"/> 160 Stockholders' Suits <input type="checkbox"/> 190 Other Contract <input type="checkbox"/> 195 Contract Product Liability <input type="checkbox"/> 196 Franchise	PERSONAL INJURY <input type="checkbox"/> 310 Airplane <input type="checkbox"/> 315 Airplane Product Liability <input type="checkbox"/> 320 Assault, Libel & Slander <input type="checkbox"/> 330 Federal Employers' Liability <input type="checkbox"/> 340 Marine <input type="checkbox"/> 345 Marine Product Liability <input type="checkbox"/> 350 Motor Vehicle <input type="checkbox"/> 355 Motor Vehicle Product Liability <input type="checkbox"/> 360 Other Personal Injury <input type="checkbox"/> 362 Personal Injury - Medical Malpractice PERSONAL INJURY <input type="checkbox"/> 365 Personal Injury - Product Liability <input type="checkbox"/> 367 Health Care/Pharmaceutical Personal Injury Product Liability <input type="checkbox"/> 368 Asbestos Personal Injury Product Liability PERSONAL PROPERTY <input type="checkbox"/> 370 Other Fraud <input type="checkbox"/> 371 Truth in Lending <input type="checkbox"/> 380 Other Personal Property Damage <input type="checkbox"/> 385 Property Damage Product Liability	<input type="checkbox"/> 625 Drug Related Seizure of Property 21 USC 881 <input type="checkbox"/> 690 Other LABOR <input type="checkbox"/> 710 Fair Labor Standards Act <input type="checkbox"/> 720 Labor/Management Relations <input type="checkbox"/> 740 Railway Labor Act <input type="checkbox"/> 751 Family and Medical Leave Act <input type="checkbox"/> 790 Other Labor Litigation <input type="checkbox"/> 791 Employee Retirement Income Security Act IMMIGRATION <input type="checkbox"/> 462 Naturalization Application <input type="checkbox"/> 465 Other Immigration Actions	<input type="checkbox"/> 422 Appeal 28 USC 158 <input type="checkbox"/> 423 Withdrawal 28 USC 157 PROPERTY RIGHTS <input type="checkbox"/> 820 Copyrights <input type="checkbox"/> 830 Patent <input type="checkbox"/> 835 Patent - Abbreviated New Drug Application <input type="checkbox"/> 840 Trademark <input type="checkbox"/> 880 Defend Trade Secrets Act of 2016 SOCIAL SECURITY <input type="checkbox"/> 861 HIA (1395ff) <input type="checkbox"/> 862 Black Lung (923) <input type="checkbox"/> 863 DIWC/DIWW (405(g)) <input type="checkbox"/> 864 SSID Title XVI <input type="checkbox"/> 865 RSI (405(g)) FEDERAL TAX SUITS <input type="checkbox"/> 870 Taxes (U.S. Plaintiff or Defendant) <input type="checkbox"/> 871 IRS—Third Party 26 USC 7609	<input type="checkbox"/> 375 False Claims Act <input type="checkbox"/> 376 Qui Tam (31 USC 3729(a)) <input type="checkbox"/> 400 State Reapportionment <input type="checkbox"/> 410 Antitrust <input type="checkbox"/> 430 Banks and Banking <input type="checkbox"/> 450 Commerce <input type="checkbox"/> 460 Deportation <input type="checkbox"/> 470 Racketeer Influenced and Corrupt Organizations <input checked="" type="checkbox"/> 480 Consumer Credit (15 USC 1681 or 1692) <input type="checkbox"/> 485 Telephone Consumer Protection Act <input type="checkbox"/> 490 Cable/Sat TV <input type="checkbox"/> 850 Securities/Commodities/Exchange <input type="checkbox"/> 890 Other Statutory Actions <input type="checkbox"/> 891 Agricultural Acts <input type="checkbox"/> 893 Environmental Matters <input type="checkbox"/> 895 Freedom of Information Act <input type="checkbox"/> 896 Arbitration <input type="checkbox"/> 899 Administrative Procedure Act/Review or Appeal of Agency Decision <input type="checkbox"/> 950 Constitutionality of State Statutes
REAL PROPERTY <input type="checkbox"/> 210 Land Condemnation <input type="checkbox"/> 220 Foreclosure <input type="checkbox"/> 230 Rent Lease & Ejectment <input type="checkbox"/> 240 Torts to Land <input type="checkbox"/> 245 Tort Product Liability <input type="checkbox"/> 290 All Other Real Property	CIVIL RIGHTS <input type="checkbox"/> 440 Other Civil Rights <input type="checkbox"/> 441 Voting <input type="checkbox"/> 442 Employment <input type="checkbox"/> 443 Housing/Accommodations <input type="checkbox"/> 445 Amer. w/Disabilities - Employment <input type="checkbox"/> 446 Amer. w/Disabilities - Other <input type="checkbox"/> 448 Education PRISONER PETITIONS Habeas Corpus: <input type="checkbox"/> 463 Alien Detainee <input type="checkbox"/> 510 Motions to Vacate Sentence <input type="checkbox"/> 530 General <input type="checkbox"/> 535 Death Penalty Other: <input type="checkbox"/> 540 Mandamus & Other <input type="checkbox"/> 550 Civil Rights <input type="checkbox"/> 555 Prison Condition <input type="checkbox"/> 560 Civil Detainee - Conditions of Confinement			

V. ORIGIN (Place an "X" in One Box Only)

- ☒ 1 Original Proceeding
- ☐ 2 Removed from State Court
- ☐ 3 Remanded from Appellate Court
- ☐ 4 Reinstated or Reopened
- ☐ 5 Transferred from Another District (specify)
- ☐ 6 Multidistrict Litigation - Transfer
- ☐ 8 Multidistrict Litigation - Direct File

VI. CAUSE OF ACTION

Cite the U.S. Civil Statute under which you are filing (Do not cite jurisdictional statutes unless diversity):

15 U.S.C. § 1681

Brief description of cause:

Violations of the FCRA Permissible Purpose

VII. REQUESTED IN COMPLAINT:

☐ CHECK IF THIS IS A CLASS ACTION UNDER RULE 23, F.R.Cv.P.

DEMAND \$

CHECK YES only if demanded in complaint:

JURY DEMAND: ☒ Yes ☐ No

VIII. RELATED CASE(S) IF ANY

(See instructions):

JUDGE

DOCKET NUMBER

DATE

SIGNATURE OF ATTORNEY OF RECORD

FOR OFFICE USE ONLY

RECEIPT # _____ AMOUNT _____ APPLYING IFP _____ JUDGE _____ MAG. JUDGE _____